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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/516,975

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Melquisedec Francisquini

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EXAMINER

KUHN, MART K

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

11/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/516,975	FRANCISQUINI, MELQUISEDEC	
	Examiner	Art Unit	
	Mart K. Kuhn	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-21 and 23-35 is/are pending in the application.
- 4a) Of the above claim(s) 29-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-21 and 23-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections—35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19–28, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen, US patent 6,428,127, in view of Pochet, US patent 6,231,142. Rasmussen discloses a metallic profile (1), used to form a structure (Fig. 1) supporting thin metallic closures (4) and doors (5) of a cabinet; the metallic profile having a tubular central core with a substantially square cross-section (bounded by walls 9, 13); a first vertex (corner of walls 9) facing the inside of the cabinet, and an opposite first vertex (corner of walls 13) facing the outside of the cabinet, the two first vertices formed by single walls; two second vertices formed by the joining of the walls folded to form the first two vertices; and double walls forming opposite rims with short ends (11) having grooves (14) therein, the short ends being parallel to and spaced from the walls (13) adjacent the opposite first vertex. Rasmussen does not teach a wall with a projection forming a perpendicular rim. Pochet teaches a metallic profile (7) used in the assembly of a cabinet (1) with thin metallic closures (3); the metallic profile having a tubular center core; a first vertex (43) facing the inside of the cabinet, and an opposite first vertex (38) facing the outside of the cabinet; second vertices formed by the joining of the walls forming the first two vertices; double walls (21, 11) forming opposite rims; and a projection forming a perpendicular rim (12) perpendicularly oriented from the wall of the opposite first vertex, allowing cover elements to be fastened to the profile without penetrating the wall of the profile towards the interior of the cabi-

net (see abstract). It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the metallic profile of Rasmussen by including a projection forming a perpendicular rim on a wall adjacent the opposite first vertex, as taught by Pochet, for the purpose of enabling cover elements to be attached to the profile without penetrating the exterior-facing walls of the profile.

Regarding claim 20, Rasmussen does not explicitly teach exterior-facing walls without holes therein. Pochet teaches exterior-facing walls (29) without holes therein, sealing the inside of the profile. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the profile of Rasmussen, already modified as above, by providing exterior-facing walls without holes, as taught by Pochet, for the purpose of sealing the inside of the profile.

Regarding claim 21, Rasmussen teaches interior-facing walls with rows of openings (17) therein.

Regarding claim 23, Rasmussen teaches a symmetric structure (Fig. 1) formed by the union of various profiles (1), with rims facing the outside.

Regarding claim 24, Rasmussen teaches folded ends (11) forming rims (14) for gaskets (12, 20).

Regarding claim 25, Rasmussen teaches closures (4, 5) sealed with gaskets (12, 20) applied to folded ends (11), but does not teach a perpendicular rim with fixing points for screws. Pochet teaches a perpendicular rim (12) with fixing points (14) for screws (49) for closures. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the profile of Rasmussen, already modified as above, by including fixing points in the perpendicular rim, as taught by Pochet, for the purpose of allowing closures to be screwed thereto.

Regarding claim 26, Rasmussen teaches short ends (11) with flat props (10) for receiving sealing cords (12, 20) fixed to closures (4, 5).

Regarding claim 27, Rasmussen does not teach two structures joined side-by-side. Pochet teaches two structures joined side-by-side (Fig. 7), with a seal (as in 50, see col. 8, lines 4–5) therebetween, pressure provided on the seal by an accessory (50), and a rod (48) fixed with screws (49) interconnecting the perpendicular rims. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the structure of Rasmussen, already modified as above, by joining two structures side-by-side with a seal, an accessory, and a rod, as taught by Pochet, for the purpose of providing a combined structure with a larger interior volume without sacrificing the sealing of the profiles.

Regarding claim 28, Rasmussen does not teach a perpendicular rim formed at an opposite first vertex, coplanar with one adjacent wall and perpendicular to another. Pochet teaches a perpendicular rim formed at the opposite first vertex of the profile, coplanar with one adjacent wall and perpendicular to the other. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the profile of Rasmussen, already modified as above, by positioning the perpendicular rim at a vertex of the profile, as taught by Pochet, for the purpose of simplifying the construction of the profile.

Response to Arguments

3. Applicant's arguments, see page 6, filed 29 August 2007, with respect to the objections to the drawings and claims, and the rejections of the claims under 35 U.S.C. § 112, have been fully considered and are persuasive. The objections and rejections have been withdrawn.

4. Applicant's remaining arguments filed 29 August 2007 have been fully considered but they are not persuasive.

5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (*i.e.*, "all of the vertical sides are the same", page 7, and "all of the uprights have the same cross section", page 8) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, it is noted that Rasmussen does in fact teach a cabinet where "all of the vertical sides are the same" and "all of the uprights have the same cross section". The disclosure states that the cabinet is formed by "twelve profiles 1 connected together in corners" (column 3, lines 48–49), all of the profiles having the same cross-section. Figure 6 also shows a corner of the cabinet, where three identical profiles are joined together; all of the vertical sides would inherently "be the same" with such a construction.

6. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The attacks on Pochet belie the fact that Pochet teaches a perpendicular rim on a profile, and makes clear the benefit of having such a rim, making it obvious to include such a rim on the profile of Rasmussen.

7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the

time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, the profile of Rasmussen can be considered a base product, on which the claimed invention—specifically the perpendicular rim—is an improvement. Pochet teaches a comparable profile improved in the same way as the claimed invention (*i.e.*, a profile having a perpendicular rim thereon) and points out the benefit provided by the improvement: "... the cover elements being fastened to the fastening web [perpendicular rim] ... outside the interior ... of the switch cabinet without any penetration of the wall of the frame profiles ... towards the interior ... of the switch cabinet" (see abstract). It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to apply the known improvement technique of Pochet to the profile of Rasmussen, and the results of the modification would have been predictable.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Application/Control Number:
10/516,975
Art Unit: 3637

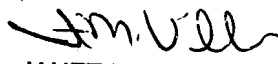
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mart K. Kuhn whose telephone number is (571) 272-8926. The examiner can normally be reached on M-F, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MKK MKK
A. November 2007


JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637